

2005 DRAFTING REQUEST

Bill

Received: 03/08/2005

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Phil Montgomery (608) 266-5840**

By/Representing: **Adam Raschka**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Eminent Domain - miscellaneous**

Extra Copies: **MDK**

Submit via email: **YES**

Requester's email: **Rep.Montgomery@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Granting of easement to public utility for transmission line

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 03/09/2005	wjackson 03/22/2005		_____			
/P1	pgrant 03/23/2005	wjackson 03/24/2005	pgreensl 03/23/2005	_____	sbasford 03/23/2005		S&L
/1			rschluet 03/24/2005	_____	lemery 03/24/2005	sbasford 04/15/2005	

FE Sent For:

"1" 5/17/05
Aclm

<END>

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/P1	pgrant 03/23/2005	wjackson 03/24/2005	pgreensl 03/23/2005	_____	sbasford 03/23/2005		S&L
/1			rschluet 03/24/2005	_____	lemery 03/24/2005		

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/P1		1 WJ 3/24	pgreensl 03/23/2005		sbasford 03/23/2005		

FE Sent For:

<END>

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/?	pgrant	/pl WLj 3/22	3/	3/			
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			3/	3/			
			122	123			
			128	128			

<END>

FE Sent For:

Kunkel, Mark

From: Raschka, Adam
Sent: Monday, March 07, 2005 5:39 PM
To: Kunkel, Mark
Subject: PSC authority over easments

Mark,

Rep. Montgomery would like the following language put into a draft.



PSC authority over
easements o...

This draft is in addition to the other transmission drafting request we have made, however, at this point in time Rep. Montgomery does not want to grant permission to any other parties to see this particular draft.

Please give me a call if you have any questions.

Adam

Adam Raschka
Office of State Representative Phil Montgomery
608-266-5840

An act to create § 196.491 (3) (1); relating to: easements for the construction of electric transmission lines on land owned by a county, municipality, public board or commission, railroad, public utility or electric cooperative.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 196.491 (3) (1) of the statutes is created to read:

196.491 (3) (1) If any electric utility or foreign transmission provider, as defined in s. 32.02 (5) (a), is issued a certificate of public convenience and necessity by the commission under s. 196.491 (3) for the construction of a high-voltage transmission line, and said transmission line approved by the commission will be constructed over, on or under lands owned by any county, municipality, public board or commission, railroad, public utility or electric cooperative, such county, municipality, public board or commission, railroad, public utility or electric cooperative shall grant the electric utility or foreign transmission provider all necessary easements or other interest in land for the construction, operation, maintenance of the transmission line at fair market value. Fair market value shall be established by an independent appraiser agreed to by the land owner and electric utility or foreign transmission provider. If the parties cannot agree on an appraiser, the chief judge of the circuit court in the county in which the property is located shall choose the appraiser at the request of either party.

what lane?

Section 2. Initial applicability

(1) This act first applies to any high-voltage transmission line for which construction is not complete on the effective date of this subsection.

*each side give 3 names
PSC must choose from 6*

Grant, Peter

From: Raschka, Adam
Sent: Wednesday, March 09, 2005 5:23 PM
To: Grant, Peter
Subject: Changes



PSC authority over
easements o...

Please note the new language is bolded and all references to railroads have been removed.

Please call with any questions.

Adam

Adam Raschka
Office of State Representative Phil Montgomery
608-266-5840

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Section 2. Initial applicability

(1) This act first applies to any high-voltage transmission line for which construction is not complete on the effective date of this subsection.

see 111.70 (4)(cm) 6-am.

Grant, Peter

From: Raschka, Adam
Sent: Friday, March 18, 2005 12:05 PM
To: Grant, Peter
Cc: Nelson, Robert P.
Subject: RE: Another shot

Peter and Bob,

Rep. Montgomery would like to go with the second option you presented: Each party would obtain its own appraisal and fair market value would be the average of the two.

Thanks for working with us on developing new language. It's important to Rep. Montgomery that we get this drafted properly.

Adam

-----Original Message-----

From: Grant, Peter
Sent: Wednesday, March 16, 2005 10:26 AM
To: Raschka, Adam
Cc: Nelson, Robert P.
Subject: RE: Another shot

Adam, the suggested language has the same problem that has appeared in previous drafts. What if the two appraisers cannot agree on a third appraiser? The "appeal" to court does not resolve the problem. In what way would the unhappy party be "aggrieved"? What standards would a court then use to choose an appraiser (which, as Bob pointed out, is really an executive branch function, not a judicial function)?

Bob and I have two additional suggestions for a procedure to use if the parties cannot agree on an appraiser:

- Each party would provide the names of three appraisers and the parties would randomly (i.e., blindly) choose one.
- Each party would obtain its own appraisal and fair market value would be the average of the two.

-----Original Message-----

From: Nelson, Robert P.
Sent: Wednesday, March 16, 2005 8:31 AM
To: Grant, Peter
Subject: FW: Another shot

-----Original Message-----

From: Raschka, Adam
Sent: Tuesday, March 15, 2005 4:30 PM
To: Nelson, Robert P.
Subject: Another shot

<< File: PSC authority over easements on public land_3.doc >>
Robert,

How does this sound. The new language is highlighted.

Adam

Adam Raschka
Office of State Representative Phil Montgomery
608-266-5840

2005

Date (time)
needed

Wed.
3/23
DN

LRB - 2357, P,
PG: WLj:

BILL

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] ^{requiring} *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:** ^{public} *the conveyance of property to a public utility for the construction of electric transmission lines.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

If this is a preliminary draft an analysis will be provided ⁱⁿ ~~in~~ a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

So 32002(5)(a), ^{or} a corporation described in

50 32002 (5) (b) 0

¶ (b) ^{Notwithstanding subo (1),} If a public utility receives a certificate from the commission of public convenience and necessity under

$591960491(3)^\vee$ for the construction of a

④ 10 ✓ Commission ✓ means the public service commission. ④

Q) 20" high \downarrow voltage transmission line has the meaning given in $501960491(1)(f)0$

high-voltage transmission line that will be
constructed over ^{land}, on, or under land
owned by a county, city, village, town,
public board or commission, ~~railroad~~

public utility, or electric cooperative,

the owner of the land shall convey to
the public utility ^{at fair market value, as determined under}
~~the~~ ^{interest} in the land necessary for the
construction, operation and maintenance of
the high-voltage transmission line.

~~(c) Fair market value under par. (b) shall~~
~~be determined by an appraiser selected~~
~~jointly by the public utility and the land owner.~~
~~the land. If the public utility and the land~~
~~owner cannot agree on an appraiser, each shall~~

~~or foreign transmission provider~~

~~or foreign transmission provider~~

~~either ^{party} may request the commission to
choose an appraiser. Upon receipt of such
a request, the commission shall submit
to the parties a list of 7 appraisers.
Upon receipt of the list, the parties
shall alternately strike ^{the} names of appraisers
until a single ^{appraiser} ~~name~~ is left. That appraiser shall
determine ~~the~~ fair market value under
para (b).~~

¶ (c) The public utility and the owner of
the land shall each ^{obtain} an independent
^{appraisal} appraisal of the ~~interest~~ in property sought
by the public utility. ^{The} fair market ^{value} of the property
for the purposes of para (b) is the average of
the two appraisals.

2005

Nonstat File Sequence: **E E E**

LRB _____ / _____

INITIAL APPLICABILITY

1. In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the budget action phrase, execute: create → action: → *NS: → 93XX
For the text, execute: create → text: → *NS: → inappl
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # ____ **[93** ____ **]**. Initial applicability;

(#1) ()

The treatment of sections ..

of the statutes

first applies to

1. In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the text, execute: create → text: → *NS: → inapplA
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ____ . Initial applicability;

(#1) ()

This act first applies to the construction of high voltage transmission lines that are under construction on the effective date of this subsection ○

(End)

DN

or foreign
transmission
provider

Adam

¶ This draft raises a number of questions. For

example, if a public utility proceeds under
proposed s 32.03(4) to acquire property;

does s 32.09 apply regarding the
determination of just compensation? Dis

s 32.09 and 32.15 apply regarding
relocation benefits? May an owner-occupant
waive such benefits under s 32.15?

What are the timelines for the acquisition of the
property? Must the public utility attempt to
negotiate the purchase of the property before
~~attempting to arrive at a~~ choosing
an appraiser? choosing

PG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2357/P1dn
PG:wlj:pg

March 22, 2005

Adam:

This draft raises a number of questions. For example, if a public utility or foreign transmission provider proceeds under proposed s. 32.03 (4) to acquire property, does s. 32.09 apply regarding the determination of just compensation? Do ss. 32.19 and 32.195 apply regarding relocation benefits? May an owner-occupant waive such benefits under s. 32.197? What are the timelines for the acquisition of the property? Must the public utility or foreign transmission provider attempt to negotiate the purchase of the property before choosing an appraiser?

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2357/P1dn

PG:wlj:pg

March 22, 2005

Adam:

This draft raises a number of questions. For example, if a public utility or foreign transmission provider proceeds under proposed s. 32.03 (4) to acquire property, does s. 32.09 apply regarding the determination of just compensation? Do ss. 32.19 and 32.195 apply regarding relocation benefits? May an owner-occupant waive such benefits under s. 32.197? What are the timelines for the acquisition of the property? Must the public utility or foreign transmission provider attempt to negotiate the purchase of the property before choosing an appraiser?

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

3/23/05
mtg. w/ Rep Montgomery and ATC lobbyists

- ① move to ch. 196
- ② "for which construction is commenced } initial app.
not completed."
- ③ utility pays for owner's appraisal
- ④ appraisals obtained only if parties can't agree on FMV.
- ⑤ DN - good question, but unlikely there'll be problems. Would rather not use term "condemn."



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2357/P1

PG:wlj:pg

Mon 2/1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

regen

1 AN ACT to create 32.03 (4) of the statutes; relating to: requiring the conveyance
2 of ~~public~~ property to a public utility for the construction of electric transmission
3 lines.

Analysis by the Legislative Reference Bureau

(attached) ✓

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. ~~32.03 (4)~~ ^{1960491(3e)} of the statutes is created to read:

5 ~~32.03 (4) (a)~~ ¹⁹⁶ In this subsection:

6 ~~1. "Commission" means the public service commission.~~

7 ~~2. "High voltage transmission line" has the meaning given in s. 196.491 (1) (f).~~

8 ~~3. "Public utility" means a foreign transmission provider, as defined in s. 32.02~~

9 ~~(5) (a), or a corporation described in s. 32.02 (5) (b).~~

10 ~~(4)~~ ^{32.03} Notwithstanding ~~s. 32.03~~ (1), if a public utility receives a certificate of public
11 convenience and necessity from the commission under ~~s. 196.491~~ ^{sub 1} (3) for the

1960491 (3e) ^(B) ^(C) = conveyance of property to a public utility (a)

1 construction of a high-voltage transmission line that will be constructed over, on, or
 2 under land owned by a county, city, village, town, public board or commission, public
 3 utility, or ~~electric~~ ^{association} cooperative, the owner of the land shall convey to the public utility,
 4 at fair market value as determined under par. ~~(b)~~ ^(b), the interest in the land necessary
 5 for the construction, operation, and maintenance of the high-voltage transmission
 6 line.

7 (b) ~~The~~ The public utility and the owner of the land shall each obtain an
 8 independent appraisal of the property ~~sought by the public utility~~. The fair market
 9 value of the property for the purposes of par. ~~(a)~~ ^(a) is the average of the two appraisals.

10 SECTION 2. Initial applicability.

11 (1) This act first applies to high-voltage transmission lines ~~that are under~~
 12 ~~construction~~ on the effective date of this subsection.

13 (END)

for which construction is not complete

appraisal
obtained by the
owner of the land

14 Not If the public utility and the owner of the land
 cannot agree on the fair market value of
 the property sought by the public utility;

2005 BILL

1 AN ACT *to amend* 16.957 (2) (a) (intro.), 16.969 (3) (b) (intro.), 20.505 (1) (gs) and
 2 20.505 (3) (r); and *to create* 16.969 (3m), 20.505 (3) (a) and 32.03 (4) of the
 3 statutes; **relating to:** condemnation of county or municipal land for electric
 4 transmission lines, payment of certain environmental impact fees to
 5 municipalities and counties, and making an appropriation.

*Analysis by the Legislative Reference Bureau**provides that if*

Current law generally prohibits the condemnation of real property owned by the state, a municipality, or a county. This bill ~~authorizes a public utility or foreign transmission provider (a foreign corporation that operates electric transmission lines in this state and other states) to condemn real property~~ owned by a county, city, village, ~~or town~~, but only if the property is condemned for the purpose of constructing or locating transmission lines and only if the parties cannot agree on a purchase price within 180 days.

Also under current law, before any person, including a public utility or foreign transmission provider, may construct certain high-voltage transmission lines, the Public Service Commission (PSC) must issue a certificate of public convenience and necessity (CPCN) for the line. If the PSC issues a CPCN to a person, the person must pay a one-time environmental impact fee that the Department of Administration (DOA) distributes to the cities, villages, towns, and counties that are affected by the line. (The person must also pay annual impact fees that DOA distributes to cities, villages, and towns, but not to counties.)

*Analysis
Insert*

↓
 receives a certificate of public convenience and necessity ^{from the Public Service Commission} for the construction of a high-voltage transmission line that will be constructed ^{over} on or under land

1. ~~John E. 252 7744~~

2. ~~George 252 7744~~

Analysis (continued)

(No
ff)

public board or commission ^{association} public utility, ^{or} ^{land} cooperative the owner of the land must convey to the public utility, ~~or foreign transmission~~ ~~provide~~ at fair market value, the interest in land ^{necessary} necessary for the construction, operation, and maintenance of the transmission line.

If the bill provides that if the parties cannot agree on the fair market value of the property, each party must obtain an appraisal of the property, paid for by the public utility. The average of the ^{two} appraisals is deemed the fair market value.

FE-SL

Northrop, Lori

From: Raschka, Adam
Sent: Friday, April 15, 2005 11:37 AM
To: LRB.Legal
Subject: Draft review: LRB 05-2357/1 Topic: Granting of easement to public utility for transmission line

It has been requested by <Raschka, Adam> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2357/1 Topic: Granting of easement to public utility for transmission line

Memo

To: Senator ☐ Representative ☒

Montgomery

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2005 draft.

LRB Number: LRB -2357

Version: " / 1 "

Fiscal Estimate Prepared By: (agency abbr.) PSC

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 05 / 19 / 2005

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2005 AB 437

Barman, Mike

From: Barman, Mike
Sent: Thursday, May 19, 2005 10:46 AM
To: Rep.Montgomery
Cc: Raschka, Adam
Subject: LRB 05-2357/1 (FE by PSC - attached - for your review)



FE_Montgomery.PD
F